

Serial No.: 10/725,374
Amendment dated October 14, 2005
Reply to Office Action of June 17, 2005

REMARKS

In the June 17, 2005 Office Action, the title, specification and claims 7 and 8 were objected to and claims 1-14 stand rejected in view of prior art.. Claims 1-14 were also rejected for failing to indicate and claim particularly and distinctly the subject matter that Applicants regard as the invention. In the June 17, 2005 Office Action, all of the claims stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the June 17, 2005 Office Action, Applicants have amended the title, specification and claims 1, 3, 4, 7, 8 and 10. Claims 2 and 14 have been canceled and new claims 15-21 have been added, as indicated above. Thus, claims 1, 2-9 and 11-21 are pending, with claims 1, 17 and 21 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Drawings

The drawings were objected to for allegedly failing to show all of the features of the recited in the claims. Applicants have amended the claims such that the claimed subject matter in question is no longer present in the claims. Applicants respectfully request withdrawal of the objections.

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Title

In paragraph 2 of the Office Action, the title was objected as not being descriptive. Accordingly, Applicants have amended the title.

Specification

In paragraphs 3-6 of the Office Action, the specification was objected to for typographical errors. In response, Applicants have amended the specification to correct the typographical errors. Withdrawal of the objections is respectfully requested.

Claim Objections

In paragraphs 9 and 10 of the Office Action, claims 7 and 8 were objected to for including informalities. Specifically, the pendency of claims 7 and 8 was incorrect. Applicants have amended claims 7 and 8 to correct their dependency.

Claim Rejections - 35 U.S.C. §112

In paragraph 11-19 of the Office Action, claims 1-14 were rejected under 35 U.S.C. §112, second paragraph. Specifically, the use of the word "preferably" appears to be objected to. In response, Applicants have amended claims 1, 7 and 8 to eliminate the indefinite language. Further, claims 2 and 14 have been canceled.

Applicants believe that the claims now comply with 35 U.S.C. §112, second paragraph. Withdrawal of the rejections is respectfully requested.

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Rejections - 35 U.S.C. § 102

In paragraphs 20-27 of the Office Action, claims 1 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,004,291 (Ressemann). In response, Applicants have amended independent claim 1 to clearly define the present invention over the prior art of record.

In particular, independent claim 1 has been amended to recite a catheter that has a catheter shaft including a proximal end and a distal end secured to a balloon, and a luer fitting arranged at the proximal end of the catheter shaft, the proximal end of the catheter shaft being provided with a bending section, the bending section having a flexibility greater than that of the section of the catheter shaft joining the proximal end, the bending section formed as a plurality of offset cuts cut into the proximal end of the catheter shaft.

Clearly, this structure is *not* disclosed or suggested by Ressemann or any other prior art of record. It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicants respectfully submit that claim 1, as now amended, is not anticipated by the prior art of record. Withdrawal of this rejection is respectfully requested.

Moreover, Applicants believe that the dependent claims 3-13 and 15-16 are also allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, the dependent claims 3-13 and 15-16 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not anticipate the independent claim 1, neither does the prior art anticipate the dependent claims.

Applicants respectfully request withdrawal of the rejections.

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Rejections - 35 U.S.C. § 103

In paragraphs 28-98 of the Office Action, claims 1-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ressemann in view of one or more of the following: Canadian Patent Application No. 5,022,978 (Meyer), U.S. Patent No. 4,465, 482 (Tittel), U.S. Patent No. 5,573,520 (Schwartz et al.), U.S. Patent No. 6,048,338 (Larson et al.), U.S. Patent No. 5,443,448 (De Vries) and EP Patent Application EP 0 937 480 (Sater), U.S. Patent No. 6,336,914 (Gillespie) and U.S. Patent No. 5,405,316 (Magram) . In response, Applicants have amended independent claim 1 and dependent claims 3, 4, 7, 8 and 10 as mentioned above.

More specifically, independent claim 1 now clearly recite a catheter that has a catheter shaft including a proximal end and a distal end secured to a balloon, and a luer fitting arranged at the proximal end of the catheter shaft, the proximal end of the catheter shaft being provided with a bending section, the bending section having a flexibility greater than that of the section of the catheter shaft joining the proximal end, the bending section formed as a plurality of offset cuts cut into the proximal end of the catheter shaft.

Clearly this arrangement is ***not*** disclosed or suggested by the Ressemann patent either alone or in combination with any other prior art of record. It is well settled in U.S. patent law that the mere fact that the prior art can be modified does ***not*** make the modification obvious, unless the prior art ***suggests*** the desirability of the modification. Accordingly, the prior art of record lacks any suggestion or expectation of success for combining the patents to create the Applicants' unique arrangement of the catheter recited in claim 1.

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More specifically, if the catheter of the Ressemann patent were some how modified to meet the claims of the present invention, it would require a complete reconstruction of the catheter of the Ressemann patent, which would destroy the teaching of the Ressemann patent.

Moreover, Applicants believe that the dependent claims 3-13 and 15 and 16 are also allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, the dependent claims 3-13 and 15 and 16 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claim 1, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Therefore, Applicants respectfully request that this rejection be withdrawn in view of the above comments and amendments.

Prior Art Citation

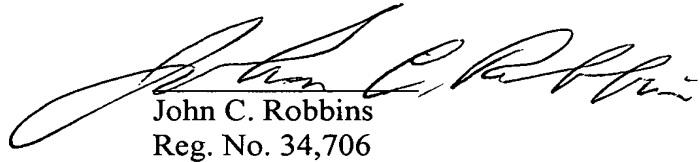
In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1, 3-13 and 15-21 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

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Respectfully submitted,



John C. Robbins
Reg. No. 34,706

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, DC 20036
(202)-293-0444
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